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SUBJECT: Lithuanian airline files suit against AirBaltic

¶1. This is a joint cable from Embassies Riga and Vilnius.

¶2. Summary: Private Lithuanian airline, FlyLAL, and Latvia's national airline, AirBaltic, are involved in an increasingly nasty dispute centered on AirBaltic's pricing of flights out of Vilnius. FlyLAL alleges that AirBaltic is using the deep discounts it receives for gate fees in Riga to subsidize fares from Vilnius at less than cost. FlyLAL succeeded in getting a Lithuanian court to order the seizure of some AirBaltic assets in Lithuania in a proceeding that did not meet minimum standards of transparency. Riga Airport subsequently suspended FlyLAL's flights from Riga to Vilnius for purported unpaid debts. The case even has the two governments sniping at each other and is an example of how competing economic interests are more important today than old standards of Baltic unity. End summary.

¶3. Tadas Vizgirda, Executive Vice President and General Manager of AirBaltic Lithuania, confirmed to Embassy Vilnius that FlyLAL has brought a legal claim against Air Baltic and Riga Airport in a district court in Vilnius. FlyLAL is claiming that the discounts AirBaltic is receiving at Riga Airport violate EU competition laws. FlyLAL further argues that these discounts have given AirBaltic an unfair competitive advantage enabling it to subsidize its flights in Vilnius, which FlyLAL believes are priced below market level. As a result, FlyLAL asserts it has suffered USD 80 million in losses. To secure compensation from AirBaltic and Riga Airport, FlyLAL made a request for the court to freeze some of Air Baltic's assets. The District Court of Vilnius granted this request.

¶4. Vizgirda relayed AirBaltic's position that the case is not legally sound due to jurisdiction issues and the fact that AirBaltic was never informed of the proceeding. CEO and President of AirBaltic, Berthold Flick, publically noted that discounts on fees at Riga Airport are awarded based on flight and passenger volume in accordance with regulations issued by the Latvian Cabinet of Ministers, and added that other airlines, including KLM/Air France and Ryanair also receive these discounts. He added that AirBaltic has begun the process to appeal the judgment of the Lithuanian court.

¶5. As the case has proceeded, the two governments have begun taking shots at each other. Latvian transport minister Slesers, who has the Riga airport and AirBaltic at the heart of his vision for development of Latvia and its capital, accused the Lithuanians of inconsiderate behavior, noting that Latvia has never sued a Lithuanian enterprise operating in Latvia, and went on to say that FlyLAL would not benefit from the legal action as it is near bankruptcy and will be out of business soon. The Lithuanian transport minister responded in a press release that "Slesers' statement regarding FlyLAL is unfounded and forms an unfavorable opinion about the Lithuanian company. Such comments by a neighboring country's government officials about operations of Lithuanian companies and their financial situation are unacceptable to Lithuania."

¶6. This is not the first time that the question of landing fees at Riga airport has come up. In November 2006, Austrian Airlines, Czech Airlines, Finnair, British Airways, Lufthansa and KLM

submitted a petition to the Latvian Competition Board claiming that the discount system in place at Riga Airport violates EU competition regulations. The Board ruled in favor of the airlines and required that the discounts be eliminated. The Latvian Transportation Ministry, however, filed an appeal with the County Administrative Court and the court set a review date of September 23, 2008. Following a request for change of court jurisdiction by one of the parties, the County Administrative Court decided to transfer the case to the District Administrative Court, which plans to review the case by October 1, 2009.

¶7. For its part, Riga Airport on the morning of October 26 suspended flights of FlyLAL to Vilnius, claiming that the company had not paid its bills and, according to press reports, seized the last FlyLAL plane in its terminal. An airport spokesperson said that FlyLAL has not settled debts at the airport since the middle of summer and has not shown any desire to make an agreement on settling the debts. In response, Baltic News Service said that Vytautas Kaikaris, the Director General of FlyLAL, told them that FlyLAL has no past-due debts with Riga Airport, and that he believes that the decision of the airport to suspend FlyLAL's flights to Vilnius is in revenge for FlyLAL's claim against AirBaltic and Riga Airport. The Press reported that on October 27th FlyLAL paid 40,000 Euros to secure the release of the plane impounded the previous day..

¶8. **Comment:** The case brought by FlyLAL in Lithuanian court seems more a show than anything else. The idea that a hearing could be held and property ordered seized without the defendant even notified of the proceeding - and that AirBaltic assets could be seized to punish Riga Airport - does not meet any basic standard of jurisprudence. But the case itself and the reaction between the governments, much like the back and forth over the proposed electricity link from Sweden, is evidence of the limits of the

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Baltic unity that we all too often assume continues to motivate relations between regional governments.

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